

1 **RUSING LOPEZ & LIZARDI, P.L.L.C.**
2 6363 North Swan Road, Suite 151
Tucson, Arizona 85718
3 Telephone: (520) 792-4800
Facsimile: (520)529-4262

4 Michael J. Rusing; mrusing@rllaz.com
State Bar No. 006617; PAN 50020
5 Mark D. Lammers; mdlammers@rllaz.com
State Bar No. 010335; PAN 330131
6 Sarah S. Letzkus; sletzkus@rllaz.com
State Bar No. 027314; PAN 66655
7 *Attorneys for Defendant, State of Arizona*

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF ARIZONA**

10 TREVER FRODSHAM, by and
11 through conservator, Fleming and Curti,
PLC,

12 Plaintiff,

13 vs.

14 STATE OF ARIZONA, a body politic;
15 CATHOLIC COMMUNITY
SERVICES OF SOUTHERN
16 ARIZONA, INC., an Arizona non-
profit corporation; ARIZONA
17 PARTNERSHIP FOR CHILDREN,
LLP, an Arizona limited liability
partnership; CATHOLIC CHARITIES
18 COMMUNITY SERVICES, INC., an
Arizona corporation; THE
19 DEVEREUX FOUNDATION, d/b/a
DEVEREUX ADVANCE
BEHAVIORAL HEALTH and
DEVEREUX ADVANCED
20 BEHAVIORAL HEALTH ARIZONA,
a Pennsylvania non-profit corporation;
DAVID FRODSHAM, an individual;
21 BARBARA FRODSHAM, an
individual; CLARENCE CARTER, in
22 his personal and official capacity as

10 NO. _____

11 **NOTICE OF REMOVAL**

12 (Assigned to Hon. _____)

1 Director of the Arizona Department of
2 Economic Security; VICKI
3 MARTZKE, in her personal and official
4 capacity as an employee of the Arizona
5 Department of Child Safety; JANE
6 AND JOHN ROES 1-50, individuals;
7 and ROE CORPORATIONS 1-50,
8 entities of form unknown,

9 Defendants.

10 Defendant State of Arizona (the “State”), pursuant to 28 U.S.C. § 1441, *et seq.*, hereby
11 removes to this Court the state court action described below, submits this Notice of Removal,
12 and shows the Court the following:

13 1. This action is a civil action of which this Court has original jurisdiction under
14 28 U.S.C.A. § 1331, and is one which may be removed to this Court by the State pursuant to
15 the provisions of 28 U.S.C.A. § 1441(a) in that one of the claims against the State and other
16 Defendants arises under 42 U.S.C. § 1982.

17 2. On March 29, 2022, an action was commenced in the Superior Court of Arizona
18 in and for the County of Cochise, Case No. S-0200-CV-202200149, naming the following
19 Defendants: State of Arizona; Catholic Community Services of Southern Arizona, Inc.;
20 Arizona Partnership for Children, LLP; Catholic Charities Community Services, Inc.; the
Devereux Foundation; David Frodsham; and Barbara Frodsham.

21 3. On April 6, 2022, Plaintiff served, and the State received, a copy of the
22 Complaint and Summons.

23 4. On April 8, 2022, Plaintiff served, and the State received, a copy of the First
24 Amended Complaint filed by Plaintiff on the same date.

25 5. The First Amended Complaint named as additional Defendants for the first time
Vicki Martzke and Clarence Carter.

Rusing Lopez & Lizardi, P.L.L.C.
6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800

1 6. On April 25, 2022, the Superior Court of Arizona in and for the County of
2 Cochise entered an Order transferring the above-described action to the Superior Court of
3 Arizona in and for the County of Maricopa.

4 7. On May 5, 2020, the Clerk of the Court of Arizona, in and for the County of
5 Cochise transferred the file in this action to the Clerk of the Superior Court, in and for the
6 County of Maricopa.

7 8. As of the filing of this Notice of Removal, the following Defendants have been
8 served by Plaintiff: the State of Arizona; Catholic Community Services of Southern Arizona,
9 Inc.; Catholic Charities Community Services, Inc.; the Devereux Foundation; David
10 Frodsham; Barbara Frodsham; Vicki Martzke; and Clarence Carter (the “Served
11 Defendants”). All of the Served Defendants consent to and join in this Notice of Removal.

12 9. Copies of all documents contained in the state court’s file are attached hereto
13 as **Exhibit A**.

14 10. On the date set forth below, a copy of this notice is being served on Plaintiff’s
15 attorney.

16 11. As of the filing of this Notice of Removal, the Superior Court of Arizona in and
17 for the County of Maricopa has not yet received the file in this case from the Superior Court
18 of Arizona in and for the County of Cochise or assigned the above described action a case
19 number. Therefore, the State cannot file a copy of this notice with the Clerk of the Superior
20 Court, in and for the County of Maricopa at this time. Out of an abundance of caution and in
21 compliance with LRCiv. 3.6(a), the State has filed a copy of this Notice of Removal in the
22 Superior Court of Arizona, in and for the County of Cochise. The State will “promptly” file
23 a copy of this Notice of Removal with the Clerk of the Superior Court of Arizona, in and for
24 the County of Maricopa as soon as the case is assigned a case number. *See* 42 U.S.C. §
25 1446(d).

1 12. Pursuant to 28 U.S.C. § 1444, *et seq.*, the State hereby removes this action
2 currently pending in the Superior Court in and for the County of Maricopa to this Court,
3 which is the District Court of the United States for the district embracing the place where the
4 state court action is pending.

5 DATED this May 6, 2022.

RUSING LOPEZ & LIZARDI, P.L.L.C.

/s/ Mark D. Lammers

Michael J. Rusing

Mark D. Lammers

Sarah S. Letzkus

Attorneys for Defendant, State of Arizona

ORIGINAL of the foregoing e-filed
this May 6, 2022.

COPY e-served this May 6, 2022 to:

Lynne M. Cadigan
Taylor W. Boren
Cadigan Law Firm, PLLC
504 S. Stone Ave.
Tucson, AZ 85701
lmcadigan@cadiganlawfirm.com

Attorneys for Plaintiff

John C. Kelly
Andrew T. Fox
Coppersmith Brockelman PLC
2800 N. Central Ave., Suite 1900
Phoenix, AZ 85004
jkelly@cblawyers.com
afox@cblawyers.com

www.cclawyers.com Attorneys for Catholic Charities Community Services, Inc.

D. Christopher Russell
The Russell's Law Firm, PLC
202 E. Wilcox Dr.

1 Sierra Vista, AZ 85635
2 courtdocs@russellslawfirm.com
2 Attorneys for Barbara Frodsham

3 Larry J. Cohen, Esq.
4 The Cohen Law Firm
5 P.O. Box 10056
5 Phoenix, AZ 85064
6 ljc@ljcohen.com
6 Attorneys for Devereux Foundation

7

8 By: /s/ Aneta Wrzeszcz

Rusing Lopez & Lizardi, P.L.L.C.
6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800